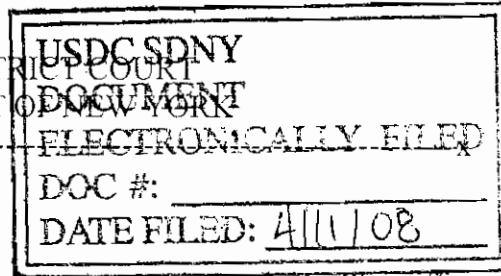
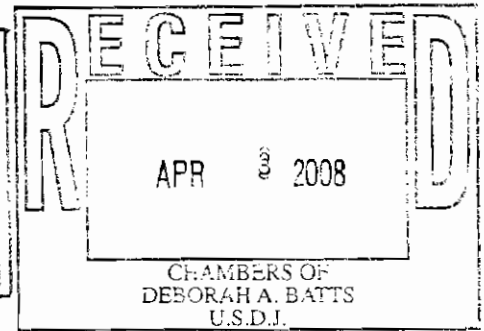


UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

ROBERT KALFUS,



Plaintiff,



-against-

07 Civ. 11455

THE NEW YORK AND PRESBYTERIAN HOSPITAL;  
SPECIAL PATROLMAN SERGEANT STEVEN  
RODRIGUEZ, SPECIAL PATROLMAN ARNOLD  
PALMER; SPECIAL PATROLMEN JOHN DOES # 1-4;  
THE CITY OF NEW YORK; LIEUTENANT EUGENE  
WHYTE; NEW YORK CITY POLICE OFFICERS JOHN  
DOES #5-8,

Defendants.

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#### STIPULATION AND PROTECTIVE ORDER

WHEREAS, defendants have sought certain documents from plaintiff in this action, documents which plaintiff deems confidential, and

WHEREAS, plaintiff will seek certain documents from defendants in discovery in this action, documents which defendants deem confidential, and

WHEREAS, the parties object to the production of confidential documents unless appropriate protection for their confidentiality is assured,

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by and between the attorneys for plaintiff and defendants as follows:

1. As used herein, "Confidential Materials" shall mean (i) any medical or psychiatric records for medical and/or psychiatric treatment of plaintiff, and the information contained therein, and any records provided by any medical or psychiatric provider pursuant to the releases requested by defendants for medical and/or psychiatric records.

2. If a party objects to the designation of particular documents as "Confidential Materials," that party shall state such objection in writing to the producing party, and the parties shall endeavor in good faith to resolve such objection. If such objection cannot be resolved, then the objecting party shall, within ten (10) days of making the objections, seek a court order approving such designation. Until and unless the Court rules otherwise, the document shall remain confidential and subject to this Protective Order.

3. Neither Defendants' attorneys nor Plaintiff's attorneys shall use the Confidential Materials for any purpose other than for the preparation or presentation of their clients' cases in this action.

4. Neither party's attorneys shall disclose the Confidential Materials to any person not a member of the staff of the Office of the Corporation Counsel, or the firm of Emery Celli Brinkerhoff & Abady LLP, except under the following conditions:

- a. Disclosure may be made only if necessary to the preparation or presentation of party's case in this action.
- b. Disclosure before trial may be made only to a party, to an expert who has been retained or specially employed by that party's attorneys in anticipation of litigation or preparation for this action, to a witness at deposition, or to the Court.
- c. Before any disclosure is made to a person listed in subparagraph (b) above (other than to the Court), the party's attorneys shall provide each such person with a copy of this Stipulation and Protective Order, and such person shall consent in writing, in the form annexed hereto as Exhibit A, not to use the Confidential Materials for any purpose other than in connection with the prosecution of this case and not to further disclose the Confidential Materials except in testimony taken in this case. The signed consent shall be retained by the disclosing party's attorneys and a copy shall be furnished to opposing counsel upon their request.

5. Deposition testimony concerning any Confidential Materials which reveals the contents of such materials shall be deemed confidential and the transcript of such

testimony, together with any exhibits referred to therein, shall be separately bound, with a cover page prominently marked "CONFIDENTIAL." Such portion of the transcript shall be deemed to be Confidential Materials within the meaning of this Stipulation and Protective Order.

6. If any paper which incorporates any Confidential Materials or reveals the contents thereof is filed in this Court, those pages containing Confidential Materials shall be delivered to the Court enclosed in a sealed envelope bearing the caption of this action, an indication of the nature of the contents, and the following legend:

**CONFIDENTIAL**

This envelope contains documents or information designated confidential pursuant to an order entered by the United States District Court for the Southern District of New York in the above-captioned action. This envelope shall not be opened or unsealed without the express direction of a judge of this Court, and its contents shall not be displayed or revealed except as the Court may order. This envelope and its contents shall at all times be maintained separate and apart from the publicly available files of this case.

7. Notwithstanding the provisions of this Stipulation and Protective Order, if a party, party's attorneys or anyone on a party's behalf ("party or party's representatives") make public material misrepresentations (outside of the proceedings of this matter), the substance of which concerns physical, psychiatric, emotional, or mental injuries to plaintiff allegedly caused by defendants, the party or party's attorney may move the Court for an order approving the disclosure of certain Confidential Material to the opposing party or party's representatives' misrepresentations. Such Confidential Material must be specific to the rebuttal of the misrepresentations.

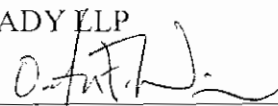
8. Within 30 days after the termination of this case, including any appeals, the Confidential Materials, including all copies, notes, and other materials containing or referring

to information derived therefrom, shall be returned to the producing party's attorneys or, upon their consent, destroyed, and all persons who possessed such materials shall verify their return or destruction by affidavit furnished to the opposing party's attorneys.

9. Nothing in this Stipulation and Protective Order shall be construed to limit the producing party's use of the Confidential Materials in any manner.

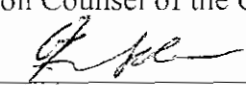
Dated: March \_\_, 2008  
New York, New York

EMERY CELLI BRINCKERHOFF  
& ABADY LLP

By:   
Ilann Margalit Maazel  
Andrew F. Wilson  
75 Rockefeller Plaza, 20<sup>th</sup> Floor  
New York, NY 10019

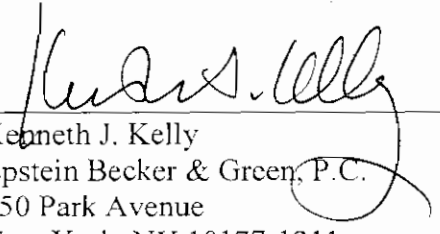
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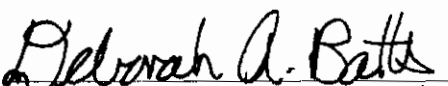
*Attorneys for Defendants City of New  
York and Lieutenant Eugene Whyte*

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By:   
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Epstein Becker & Green, P.C.  
250 Park Avenue  
New York, NY 10177-1211

*Attorneys for Defendants New York and  
Presbyterian Hospital and Special Patrolmen  
Rodriguez and Palmer*

SO ORDERED:

  
U.S.D.J. 4/10/08

**EXHIBIT A**

The undersigned hereby acknowledges that he/she has read the Stipulation and Protective Order entered in the United States District Court for the Southern District of New York on December \_\_, 2007 in the action entitled *Kalfus v. The New York and Presbyterian Hospital, et al.*, 07 Civ. 11455 and understands the terms thereof The undersigned agrees not to use the Confidential Materials defined therein for any purpose other than in connection with the prosecution of this case, and will not disclose the Confidential Materials except in testimony taken in this case.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Occupation